

REMARKS

Claims 25-54 remain in the case. Claim 25 has been amended, without prejudice or disclaimer, to recite “wherein said implant in its entirety is dehydrated or lyophilized prior to implantation”. This amendment finds support, for example, at page 12, paragraph [0062], of the specification as well as in the working examples of the application (see for example paragraphs [0100] and [0109]). Further, amendments have been made to claims 25, 39 and 40 for clarity.

Concerning 35 USC § 102

The Examiner has rejected claims 25-54 as being allegedly anticipated by Altman (US Patent No. 6,287,340). For the reasons presented below, Applicants respectfully traverse the Examiner’s rejection.

Applicant respectfully submits that Altman specifically discloses that only a portion of his implant, namely Altman’s “matrix”, is dehydrated. Applicant respectfully refers to a paragraph of Altman, spanning the bottom of column 4 to the top of column 5:

“The matrix used in the examples disclosed herein was a collagen gel. One of skill in the art will recognize that the properties of the preliminary matrix can be modulated and enhanced by modifying the matrix components, and that use of an enhanced matrix is likely to increase the efficiency of production of a bioengineered ACL. Such modifications include, without limitation, modifications aimed at modulating the mechanical and mass transport properties of the matrix. In particular, the concentration of collagen and the degree of crosslinking of collagen in the matrix can significantly influence the mechanical properties of the matrix, as well as the diffusional transport rates of nutrients and large molecules. Since the ACL is made primarily of collagen type I, it is particularly well suited for use as a preliminary matrix component. The concentration of collagen type I in the matrix should be sufficient to support cell adhesion, proliferation and differentiation. In one embodiment, collagen type I is used at a final concentration from about 2 mg/ml to about 6 mg/ml. In another embodiment the final concentration of collagen type I in the matrix is about 2 mg/ml. In another embodiment, the collagen in the preliminary matrix is crosslinked. Suitable processes for cross linking collagen include without limitation,

dehydrothermal crosslinking and ultraviolet irradiation crosslinking. Other suitable matrix materials include, without limitation polysaccharides, alginates, other proteins such as silk and elastin, synthetic polymers such as polyglycolic acid and polylactic acid and copolymers of the two, and demineralized bone.” (emphasis added)

Based on the above passage, Applicants respectfully submit that Altman discloses such “dehydrothermal” treatment only with respect to Altman’s “matrix”. In contrast, claim 25 recites that the “implant in its entirety is dehydrated or lyophilized”, i.e., the implant comprising a pair of bone anchors joined at their proximal ends by at least one support filament and at least one matrix layer around said support filament, as per current claim 25.

Applicants respectfully submit that, as per §2131 of the MPEP, “to anticipate a claim, the reference must teach every element of the claim”. Since the method disclosed by Altman does not teach dehydration or lyophilization of an implant in its entirety as recited in instant claim 25, it does not teach every element of the method of independent claim 25. Applicants therefore respectfully submit that claim 25 is novel over Altman. The remaining claims, which depend directly or indirectly from claim 25 and thus incorporate its subject matter therein, are also novel over Altman. In view of the foregoing, Applicants respectfully submit that the claims are novel over Altman, and reconsideration and withdrawal of the rejection is respectfully requested.

It is believed that the foregoing responds to all of the Examiner's concerns, however if the Examiner has any further questions, he is invited to contact the undersigned. The timely issuance of a Notice of Allowance is respectfully requested. Further, if the Examiner does not consider that the application is in a form for allowance, an interview with the Examiner is respectfully requested.

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Respectfully submitted,

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